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No. 07-665

IN THE
Supreme Court of the United States

PLEASANT GROVE CITY, UTAH, *et al.*,

Petitioners,

v.

SUMMUM,

Respondent.

ON WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

BRIEF *AMICI CURIAE* FAITH AND ACTION AND BASIC LIFE PRINCIPLES IN SUPPORT OF PETITIONERS

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INTEREST OF AMICI CURIAE

Faith and Action, Institute in Basic Life Principles and International Reapers Foundation join together once again to advocate that the "Philosophy of Government" of the United States of America, as established in the Declaration of Independence, is the legal foundation and fabric of the Constitution and mandates its interpretation.*

SUMMARY[1]

Amici answers the third question presented in the Petition for Writ of Certiorari: "Did the Tenth Circuit err by ruling that the city must immediately erect and display Summum's proposed monument in the city's park" is argued here by Amici and agrees with Petitioner that the Tenth Circuit did commit error and should be reversed.

Amici argues that the law and historical precedents demonstrate conclusively that the Founding Fathers

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* No counsel for a party authored this brief in whole or in part, and no such counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than *amici curiae*, their members, or their counsel, made a monetary contribution to its preparation or submission. The parties have consented to the filing of this brief.

[1] The author of this brief is indebted to the thinking of several author's including the late Robert C. Cannada in his brilliant, logical, and convincing advocacy based upon extensive research that the Declaration of Independence contains "America's Rule of Law."

emphatically intended that the Declaration of Independence is the foundation of this nation on which its government would be constructed. The Declaration is the very heart and spirit of the Constitution which contains the "political process" which was to be utilized in protecting the rights established in the Declaration which expressed in no uncertain terms America's Philosophy of Government, otherwise known as "America's Rule of Law." That "rule of law" was not man-made, but was predicated on God-given transcendent principles of moral law.

The failure to recognize and apply that rule of law has resulted in legal chaos and escalating moral decline in this nation, the evidence of which is overwhelming.

INTRODUCTION

The courts continued to be inundated with cases dealing with moral issues. After over sixty years of wrestling with moral issues which have generated untold volumes of rhetoric and decisions, the courts have yet to provide a guiding beacon that stabilizes that legal environment. As a matter of fact, judicial unity on this subject is further from solution that when the problem was created in 1947 by departure from the "rule of law" contained in The Declaration. The result is a lack of coherence in our courts and society with the seeds of national destruction having been planted.

The Declaration of Independence was written at a time of peril for the colonies who were seeking a route to freedom.

It was a declaration of reality, not political hype. It was a declaration based on a confidence in a Supreme Judge, that the 56 signers pledged their lives, fortunes, and sacred honor. History discloses that five were captured as traitors and tortured before they died; nine others fought and died during the Revolutionary war. Many of the others, if not most, lost their health, wealth, their homes and often their families.

Unless the Declaration is referenced, our government has no stated purpose or objective. It is the principles of the Declaration that give a purpose or objective to our government. Accordingly, if the principles of the Declaration are ignored, then "any road will get us there because we do not know where we are going." Amendments to the Constitution simply enumerate (not grant) some, but not all, of these "rights." The Declaration finds practical expression in the Constitution. Neither can be fully understood without the other.

The courts are to utilize the political process of the government, which is set forth in the Constitution, to fulfill its requirement to secure the inalienable rights with which this nation's inhabitants have been endowed by their Creator.

For a judge to interpret the Constitution without recognizing that it is to be interpreted in the light of the foundational Philosophy of Government set forth in the Declaration, would seem to constitute a violation of his or her oath to support the Constitution of the United States of America. It is contended this is not optional but comports with the oath to support the Constitution.

It is contended the Constitution can no more be separated from its foundation, the Declaration, and survive than a building can be separated from its foundation and survive.

The moral law contained in the Declaration establishes what we ought to do. Without a foundational transcendent moral law, the "political process" can be manipulated to process a "relative moral law" which appeases any sort of desired behavior. If "law" is the product of the political process, however, then all is relative. There is no right or wrong; indeed, there is no law.

A classic illustration of a government under that political indictment, and adhered to by a captured judicial system, is emphatically illustrated in the Nuremberg trials at the end of World War II.

The escape hatch used to justify the "political process" rather than the foundational moral rule of law established in the Declaration, is to deliberately classify "moral law" as "religion" and apply the judicially manufactured term, "separation of church and state." Neither the people nor the government can be the source of moral laws or moral truths.

The terms "laws of nature and of nature's God" state transcendent moral "laws of nature and of nature's God" state "truths" which are "self-evident" that all men are "created equal," and "endowed " by their Creator with certain "unalienable rights." "truths" which are "self-evident" that all men are "created equal," and "endowed " by their Creator with certain "unalienable rights."

The Transcendent Moral Truths Contained in the Declaration established "America's rule of law"

The Declaration emphatically adopts a "two tier" governmental structure.

(1) A foundation of transcendent moral truths called America's Rule of Law, or in other words its Philosophy of Government.

(2) The Constitution, the "political process" which organizes the powers of the government of the United States. The Constitution is required to be interpreted in accordance with the principles established in the Declaration, the founding organic document of the United States, and can not be repugnant to its principles. The alternative is the product of "man-made rights," with predictable destructive consequences.

The Declaration was written using carefully selected words that conveyed a precise factual meaning. The interpretation consequently could not be one of conjecture or private opinion.

The word "gentlemen," is an illustration. The term meant a man who had a coat of arms and was a landowner. He could thus be a liar, and still be a gentleman. In today's society, that word has been adulterated and describes merely an opinion of the speaker. That manner of thinking has been carried over into the judicial world. It is used in giving a word in the Declaration or Constitution an unintended meaning resulting in unpredictable legal consequences.

The words in the Declaration, for example "the Laws of Nature and of Nature's God...;" "these truths to be self-evident . . . ;" "endowed by their Creator with certain unalienable Rights . . . ," "That to secure these rights, Governments are instituted among men, . . . ," had a precise factual meaning understood by every signer, and anyone who read the Declaration..

From Blackstone's *Commentaries on the Laws*:[2]

> Law, in it's most general and comprehensive sense, signifies a rule of action; and is applied indiscriminately to all kinds of action, whether animate or inanimate, rational or irrational. Thus we say, the laws of motion, of gravitation, of optics, or mechanics, as well as the *LAWS OF NATURE AND OF NATIONS*. And it is that rule of action, which is prescribed by some superior, and which the inferior is bound to obey.
>
> Man, considered as a creature, must necessarily be subject to the laws of his Creator, for he is entirely a dependent being. This will of his Maker is called the *LAW OF NATURE*. For as God, when He created matter, and endued it with a principle of mobility, established certain rules for the perpetual direction of that motion; so, when he created man, and endued him with free will to conduct

[2] Introduced in 1766 was invoked as an authority in the writings of James Kent, James Wilson, Fisher Amos, Joseph Story, John Adams, Henry Lawrence, Thomas Jefferson, James Madison, James Otis, etc.

> himself in all parts of life, He laid down certain immutable laws of human nature, whereby that free will is in some degree regulated and restrained, and gave him also the faculty of reason to discover the purport of those laws.
>
> This *LAW OF NATURE*, being coeval with mankind and dictated by God Himself, is of course superior in obligation to any other. It is binding over all the globe in all countries, and at all times: no human laws are of any validity, if contrary to this; . . . he has laid down only such laws as were founded in those relations of *justice*, that existed in the *nature of things* antecedent to any positive precept. These are *the eternal, immutable laws of good and evil* . . . he has . . . so inseparably interwoven the laws of eternal *Justice* with the *happiness of each individual, that the latter cannot be obtained but by observing the former* . . . the doctrines thus delivered we called the revealed or divine law, and are to be found only in the *Holy Scriptures* . . . upon these two foundations, the law of nature and the law of revelation, depend all of human laws; that is to say no human laws should be suffered to contradict these.

Locke employs the same definition:

> The *Law of Nature* stands as an eternal rule to all men, legislate doors as well as others. The rules that they make for other men's

> actions must . . . the conformable to *the Law of Nature, i.e.* to the will of God.[3]

Richard Hooker , a favorite of Locke and many of the founding fathers, referenced the *law of nature* as coming from the Scripture which was filled with *Laws of Nature.*[4]

> Additional Recognition of the meaning of those terms:
>
> All [laws], however, may be arranged in two different classes. (1) Divine. (2) Human. . . . But it should always be remembered that this law, natural or revealed, made for man or for nations, flows from the same Divine source: it is the law of God. . . . Human law must rest its authority ultimately upon the authority of that law which is Divine.[5]
>
> [T]he law . . . dictated by God Himself is, of course, superior in obligation to any other. It is binding all over the globe, in all countries, and at all times. No human laws are of any

[3] John Locke, *Two Treaties*, Book II, p. 285, Chapter XI, §135

[4] *The Works of That Learned and Judicious Divine, Mr. Richard Hooker* Vol. I pp, 148, 207, 230, 427.

[5] James Wilson, *The Works of the Honorable James Wilson*, Bird Wilson, Editor (Philadelphia: Lorenzo Press, 1804) Vol. 1, pp. 103-105, "Of the General Principles of Law and Obligation."

> validity if contrary to this.[6] (Alexander Hamilton)

So whatever modern day opinions might seek to establish, it is inarguably conclusive that when the Declaration was signed on July 4, 1776, the terms utilized had precise meanings which are simply being ignored .

- Creator God: The transcendent and moral personal being who brought into existence the universe and who according to his own nature established in it a moral order.

- Form of Government: The structure of the government infused with "the political process" to be used in protecting the rights established in the founding document.

- Laws of Nature and Nature's God: The transcendent, universal, and unalterable moral code of the Creator God.

- Natural Law: The source of that transcendent moral law as used in the Declaration is the Creator God.

The term "Creator" found in Blackstone and used in the Declaration of Independence and the term *Law*

[6] Alexander Hamilton, *The Papers of Alexander Hamilton*, Herald C.Syrett, editor (New York: Columbia University press, 1961) Vol. 1 p. 87, p. 87, Feb 23, 1875, quoting William Blackstone, Commentaries on the Law of England

of Nations found in the Constitution, Article I § 8 further supports importation of the terms directly into the Constitution.

John Jay, first Chief Justice of the Supreme Court, said ". . . Natural law was given by the Sovereign of the universe to all mankind."[7] Zephaniah Swift who wrote America's first law text agreed stating: "The . . . Supreme Deity. . . . [Gave] those general and immutable laws that will regulate their operation through the endless ages of eternity . . . are denominated the laws of nature."[8] Samuel Adams contributed: All men . . . are equally bound by the laws of nature, or to speak more properly, the laws of the Creator.[9] Noah Webster commented that the ". . . 'law of nature' is a rule of conduct . . . established by the Creator . . . denominated in Scripture . . ."[10]

James Wilson, a signer of the Constitution said: ". . . human law must rest its authority ultimately upon

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[7] John Jay, *The Life of John Jay.*, William J., Editor (New York: J& J. Harper, 1833), Vol. II, p. 385.

[8] Zephaniah Swift, A System of the Laws of the State of Connecticut (John Byrne, 1795), Vol. I, pp. 6-7.

[9] Samuel Adams, *The Writings of Samuel Adams*, Harry Cushing, Editor (New York: G.P. Putnam's Sons, 1908), Vol. IV, p. 356.

[10] Hamilton, *Papers*, Vol. I p. 87, February 23, 1775, quoting from Blackstone.

the authority of that law which is Divine."[11] Rufus King added his additional comment: ". . . Law established by the Creator, which has existed from the beginning. . . . [Is] binding upon mankind. . . . [This] is the law of God by which He makes his way known to man and is paramount to all human control."[12]

THE TERMS USED IN THE DECLARATION DID NOT REFER TO OR ESTABLISH A RELIGION

There is a fundamental difference between the nations' legal philosophy of government and religion. Philosophy of government involves principles, presuppositional truths, and perspectives on the nature and purpose of government.[13] It includes a view on the source of rights, the purpose of and restraints on government, the source of power of government, and the source of a standard of morality to be incorporated into its legal system.

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[11] James Wilson, *The Works of the Honorable James Wilson*, Bird Wilson, Editor (Philadelphia: Lorenzo Press, (1804), Vol. I, pp. 103-105, "*Of the General Principles of Law and Obligation.*"

[12] Rufus King, *The Life and Correspondence of Rufus King*, Charles R. King, Editor (New York: G.P. Putnam's Sons, 1900), Vol. VI, p. 276.

[13] "[Philosophy] when applied to any particular department of knowledge denotes the collection of general laws or principles under which all the subordinate phenomena or facts relating to that subject are comprehended." *American Dictionary of the English Language.* (Noah Webster, 1828)

Religion, on the other hand, is defined as the manner of discharging our duty to our Creator,[14] and is to be specifically distinguished from a philosophy of government.[15] Failure to make that distinction leads one down many dissonant trails. The following quotation is in accord with the principle of performing one's duty to the Creator, as opposed to recognition of God. "The term religion has reference to one's views of his relations to his Creator, and the obligation they impose of reverence for his being and character, and of obedience to his will." *Davis vs. Beason* 133 U.S. 333, 342 (1890).

THE DECLARATION AND ITS PRINCIPLES ARE LEGALLY RECOGNIZED AS PART OF THE CONSTITUTION AS ONE UNIT

The Declaration and its principles have been historically recognized as being a legal part of the Constitution and thus binding on Constitution's interpretation..

The original States endorsed the Declaration and every State since has been required to provide a government that is ". . . republican in form and in conformity with the Constitution of the United States

[14] Madison quoting from the Virginia Constitution, Article I §16 (1776 and current).

[15] The Bible, which was used as a guide in drafting the founding documents, also defines religion as duty. " If any man among you seem to be religious, and bridalleth not his tongue, but deceiveth his own heart, this man's religion is vain. Pure religion and undefiled before God and the Father is this, to visit the fatherless and widows in their affliction, and to keep himself unspotted from the world. (James 1:26-27)

and the *principles of the Declaration of Independence* . . ." [See State of Hawaii, Pub. L. No. 86-3, 73 Stat. 4 (1959)] (Emphasis supplied)

To become a territory of the United States, its government must comply with the Northwest Ordinance—adopted July 13, 1787 by the United States in Congress assembled—Article Third, providing "religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged."[16] [17]

Former President John Quincy Adams at the Jubilee of the Constitution on April 30, 1839[18], the 50th anniversary of the inauguration of President Washington stated:[19]

> "This act [the Constitution] was the compliment to the Declaration of Independence; founded upon the same principles, carrying them out into practical

[16] It is specifically to be noted that this was adopted the same week that Congress was completing the draft of the First Amendment. The ordinance was reenacted in 1789 at the time the Bill of Rights was sent to the states for approval.

[17] See *Meyer v. United States*, 272 US 52, 174-175 (1926)

[18] This address of course was some 50 years or so after the adoption of the Bill of Rights.

[19] *America's Rule of Law* by Robert C. Cannada; published, National Lawyers Association Foundation (2001).

> execution, and formulating with it, one entire system of government . . . the Declaration and Constitution are parts of one consistent whole, founded upon one and the same theory of government, then new, not as a theory, for it had been working itself into the mind of man for many ages, and been especially expounded in the writings of Locke, but had never been adopted by a great nation in practice."

November 19, 1863, President Lincoln in his Gettysburg Address officially recognized the Declaration of Independence as the beginning of this nation. Its Philosophy of Government was the reason for the bloody civil war because the government of the United States, which was now protecting the rights declared in the Declaration.

John Quincy Adams made this extraordinarily clear in a speech he delivered at the New York Historical Society on April 30, 1839:

> "The Declaration was America's charter . . . the act [Constitution] . . . forming with it one entire system of national government . . . All this is by the Laws of Nature and of Nature's God, which of course presuppose the existence of a God , the moral ruler of the universe in a rule of right and wrong, of just and unjust, binding upon men, preceding all institutions of human society and of government . . . now the virtue which had been infused into the Constitution of the United States, and was to give to it its vital existence,

> the stability and duration to which it was destined, was no other than the concretion of those abstract principles *which had been first proclaimed in the Declaration of Independence-namely, the self-evident truths of the natural and unalienable rights of man . . . always subordinate to . . . the Supreme Ruler of the universe . . . that was the platform upon which the Constitution of United States had been erected . . . consisted in its conformity to the principles proclaimed in the Declaration of Independence. . . .*" (Emphasis added)

Alexander Hamilton concurred saying the Constitution is nothing but the body and letter of the Declaration which is its thought and spirit.[20] He added that the law was dictated by God Himself and that no human law was of any validity contrary to God's law.[21]

In a turn-of-the-century case the court held: "The latter [Constitution] is but a body and the letter of which the former [Declaration of Independence] is the thought and the spirit, and it is always safe to read the letter of the Constitution in the Spirit of the Declaration of Independence." *Gulf, Colorado and Santa Fe Railroad Co. v. Ellis*, 165 U.S. 150, 160 (1897).

[20] *The Federalist*, p. 275, Federalist # 49 by Alexander Hamilton.

[21] Alexander Hamilton, *The Papers of Alexander Hamilton*, Harold C. Syrett, Editor (New York: Columbus University Press, 1961), Vol. I , p. 87, February 23, 1775

This philosophy of government is reflected in numerous ways in the Constitution, both in content and theory. "We the People" declare that the power to create government comes from the "consent of the governed." The Preamble also states that one of the purposes of the Constitution is to "secure the blessings of liberty to ourselves and our posterity." This statement affirms the concept of unalienable rights, given by the Creator. Article VII acknowledges the existence of the Creator, and as previously noted, incorporates the philosophy of government which is embodied in the Declaration.

The philosophy of government that acknowledges the Creator God is also reflected in all Amendments. For example, the Fifth Amendment protects "Life, Liberty, and Property." This recognizes the importance of protecting unalienable Rights, and establishes that those Rights cannot be taken away unless appropriate legal steps are taken. This also affirms the truth that all people are created by God and, therefore, have great value. No one has the authority or right to take another person's life. This asserts the government's purpose to secure the unalienable right to life as stated in the Declaration of Independence. The 14th Amendment, ratified July 9, 1868, provides due process and equal protection and would be without meaning if there was not the philosophy of government that acknowledged the Creator. "All Men are created equal" is the bedrock foundation of due process and equal protection.

Article I, § 8 of the Federal Constitution is relevant to the pattern and states:

> "To define and punish piracies and felonies committed on the high seas, and offenses against the ***Law of Nations***."

Article VI of the Constitution provides in the third paragraph thereof:

> "The Senators and Representatives before mentioned and the members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by **Oath or Affirmation**, to support this Constitution; . . . ."

Article VII of the Constitution provides in the last paragraph thereof:

> "Done in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the ***Year of Our Lord*** one thousand seven hundred and Eighty-seven ***and of the Independence of the United States of America the Twelfth***. In Witness whereof, We have hereunto subscribed our Names, [George Washington-President and deputy from Virginia, etc]. (Emphasis supplied)

Article VII of the Constitution then legally engrafts the Declaration Of Independence into the Constitution

as effectively as though it had said, "attached hereto and made a part hereof," by the declaration ". . . by the unanimous consent of the States present the 17th day of September in the *year of our Lord* one thousand seven hundred and eighty seven, *and of the independence of the United States of America the twelfth.*

As a direct consequence, all the terms as defined above are fused into the Federal Constitution., and thus become the governing Law of this land.

Justice Douglas in *McGowan v. State of Maryland*, 366 U.S. 420, 81 S. Ct. 1218 (1961).] captured that historical fact in these words:

> The institutions of our society are founded on the belief that there is an authority higher than the authority of the State; that there is a moral law which the State is powerless to alter; that the individual possesses rights, conferred by the Creator or, which government must respect. The Declaration stated the now familiar theme: 'We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness.' ***And the body of the Constitution as well as the Bill of Rights enshrined those principles***. (Emphasis added)

President Truman, when questioned concerning the reason for America's greatness following the World Wars, said:

> The fundamental basis of this nation's laws was given to Moses on the Mount. The fundamental basis of our Bill of Rights comes from the teachings we get from Exodus and St. Matthew, from Isaiah and St. Paul. I don't think we emphasize that enough these days. If we don't have a proper fundamental moral background, *we will finally end up with a totalitarian government which does not believe in rights for anybody except the State!* (Emphasis supplied).[22]

Modern illustrations affirm our philosophy of government: Franklin Delano Roosevelt during a radio broadcast in 1935:[23]

> We cannot read the history of our rise and development as a nation, without reckoning with the place the Bible has occupied in shaping the advances of the Republic.

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[22] :http//www.zdraines.homestead.com/files/bookusa.htm (One Nation under God; part eight-*America at the Crossroads,* summary).

[23] The quotations of President Roosevelt and President Truman:http//www.zdraines.homestead.com/files/bookusa.htm (*One Nation under God; part eight-America at the Crossroads, summary)*

During World War II, Gideon's International printed multitudes of New Testaments that were given to our troops as they left for the service. The prologue of this Bible was written by President Roosevelt and was short and to the point as to why these Bibles were given out.

> As Commander-in-chief, I take pleasure in commending the reading of the Bible to all who serve in the armed forces of the United States. Throughout the centuries men of many faiths and diverse origins have found in the Sacred Book words of wisdom, counsel, and inspiration. It is a fountain of strength and now, as always, an aid in attaining the highest aspirations of the human soul."

Harry Truman's first address to Congress concluding words are stated; followed by his quote that America became great following two World Wars based on our legal system :

> At this moment I have in my heart a prayer. As I have assumed my heavy duties, I humbly pray to Almighty God in the words of King Solomon 'Give therefore Thy servant an understanding heart to judge Thy people that I may discern between good and bad; or who is able to judge this Thy so great a people?' I ask only to be a good and faithful servant of my Lord and my people.
>
> The fundamental basis of this nation's laws was given to Moses on the Mount. The fundamental basis of our Bill of Rights comes

> from the teachings we get from Exodus and St. Matthew, from Isaiah and St. Paul. I don't think we emphasize that enough these days. If we don't have a proper fundamental moral background, *we will finally end up with a totalitarian government which does not believe in rights for anybody except the State!* (Emphasis supplied)

John F. Kennedy in his inaugural address on January 20, 1961 said:[24]

> The rights of man come not from the generosity of the State but from the hand of God. The energy, the faith, the devotion which we bring to this endeavor will light our country and all who serve it, and the glow from that fire can truly light the world. And so, my fellow Americans, ask not what your country can do for you, ask what you can do for your country. Let us go forth to lead the land we love, asking His blessing and His help, but while here on Earth God's work will truly be our own.

Ronald Wilson Reagan was the 40th president of the United States. On October 4, 1982, upon the joint resolution of Congress, President Reagan declared 1983

[24] The quotations of President Kennedy and President Reagan:http//www.zdraines.homestead.com/files/bookusa.htm (*One Nation under God; part eight-America at the Crossroads, summary)*

the "year of the Bible". This resolution, Public Law 97-280, stated:

> Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, that the president is authorized and requested to designate 1983 as a nation 'Year of the Bible' in recognition of both the formative influence the Bible has been for our nation, and our national need to study and apply the teachings of the Holy Scriptures.

Further corroboration is a statement of Chief Justice of the United States Supreme Court, Earl Warren printed in *Time* magazine, February 15, 1954:

> I believe no one can read the history of our country without realizing that the Good Book and the Spirit of the Savior have from the beginning been our guiding genius. Whether we look to the first charter of Virginia or to the Charter of Massachusetts Bay, or to the fundamental orders of Connecticut, the same objective is present, a Christian land governed by Christian principles. I believe the entire Bill of Rights came into being because of the knowledge our forefather's had of the Bible and their belief in it. I like to believe we are living today in the Spirit of the Christian religion. I like also to believe that as long as we do so, no great harm can come to our country.

EVIDENCE OF THE APPLICATION OF THE MORAL TRUTHS IN THE DECLARATION AND MODERN-DAY FAILURE TO APPLY THOSE TRUTHS

Some early Supreme Court cases illustrate the recognition of an application of the moral law contained in the Declaration.

Here are some comparisons of court decisions on morals in the 1800's and modern-day jurisprudence. In 1985, Cassie Grove, a high school sophomore, had been required to read *A Learning Tree* for her English Literature class. She objected to being forced to read several portions. The court in *Grove vs. Mead School District,* 753 F. 2nd 1528 (9th Cir. 1985), *cert. denied*, 474 U.S. 826, ruled against her and found that students taking that class would be required to read the book containing much offensive language including the following:

> "Declaring Jesus Christ to be a 'poor white trash God,' or 'a long legged white son-of-a-b__h.'"

In *People vs. Ruggles,* 8 Johns 545 (Sup. Ct. NY. 1811) Ruggles had used the following language: "Jesus Christ was a bast__d, and his mother must be a whore." The court found Ruggles guilty and said:

> Such words . . . were an offense at common law . . . [I]t tends to corrupt the morals of the people, and to destroy good order. Such offenses . . . are treated as affecting the essential interests of civil society.

In *Cohen v. California,* 403 U.S. 15, 18, 20, 25 (1971) Cohen wore a jacket bearing the words "F___the Draft" in a corridor of the Los Angeles Courthouse. The California statute which prohibited the public use of such words was found unconstitutional as violating his freedom of expression guaranteed by the 1st and 14th Amendment. The court found this was not an obscenity case and although "the air may at times seem to be filled with verbal cacophony . . . in this sense it was not a sign of weakness but of strength."

In contrast, the Supreme Court in *People vs. Ruggles, supra.* (1811) stated:

> Nothing could be more offensive to the virtuous part of the community or more injurious to the tender morals of the young, then to declare such profanity lawful . . . and shall we form an exception in these particulars to the rest of the civilized world?

In the case of *Erznoznik vs. City of Jacksonville*, 422 U.S. 205, (1975) the city of Jacksonville was seeking to restrict adult movies shown in a public drive-in theater because the screen was facing a church and two public streets frequented by children. The Supreme Court said striking down the ordnance explaining that it could not ". . . be justified as an exercise of the [city] . . . for the protection of children."

In direct contrast, *Commonwealth v. Jesse Sharpless and Others,* 2 Surge. & R. 91, 103, 104 (Sup. Ct. Penn.1815) the court came to the exact opposite decision:

> The destruction of morality renders the power of the government invalid. . . . The corruption of the public mind, in general, and deep watching the manners of youth, in particular, by the mood and obscene pictures exhibited the view, must necessarily be attended with the most injurious consequences. . . . No man is permitted to corrupt the morals of the people.

It would take a library and decisions to catalog all of the discriminatory conduct against any communication which the Declaration Of Independence declares as "self-evident truths," moral rights which are established by the living God as disclosed in the declaration. Those would include refusal to let a teacher, Stephen J. Williams provide a handout containing the "Declaration of Independence" to his students and other absolutely contumacious violation of his rights to distribute handouts to students all of which were consistent with the moral truths provided for in the Declaration.(See, *Williams v. Patricia Vidmar, Principle of Stevens Creek School, et al.*; (Case No. C-04-4946 [filed November 22, 2004])

In addition, the historical record discloses that the Congress printed Bibles and distributed them, the Bible was used in schools for educational purposes, prayer and Bible study was permitted in the schools. Public displays

of the Ten Commandments and other exhibits such as Christmas decorations, crosses, Christmas trees, use of terms such as Thanksgiving, Christmas, Easter, and the list goes on as graphic illustration of the cultural heritage of this nation as contained in the Declaration.

EVIDENCE OF THE CONSEQUENCES OF ABORTING THE PHILOSOPHY OF GOVERNMENT IN THE DECLARATION

It does not require any diligent research to illustrate the consequences of the total violation of the transcendent moral truths established as the nations philosophy of government in the Declaration of Independence. One could trace the beginning of this escalating slide into the moral abyss from the case totally unsupported by precedent, *Everson v. Board of Education of Ewing TP.,* 301 U.S. 1 (1947).

A few statistics demonstrate the following commencing with the year 1963 until 1993: birthrates for unwed girls 15-19 years of age from 15 to 45[25]; violent crimes from approximately from .25 million to 1.9 million[26] ; in the age group of 10-14 sexually transmitted diseases have gone from 14 to 70 per 100,000 total population in 1990 and then dropped back to 54 in 1993[27];

[25] basic data from Department of Health and Human Services and statistical abstract of the United States

[26] Basic data from statistical abstract of the United States, and the Department of Commerce, Census Bureau

[27] Basic Data from the Center for Disease Control in Department Of Health And Human Services

SAT total scorers and dropped from 1980 two 910 in 1994[28]; family stability, that is single-parent households with a female head, no spouse present have risen from 5 million households in 1963 to 12 million in 1993-94.[29]

Getting into the 21st century, the moral scene is even more bizarre. In the headlines just a week or so ago, 15 teenage girls, "children" which our laws are designed to protect and morally educate, determined that they were going to get pregnant and all of them did. If this court could walk into probably 70 or 80% of the sex education courses in the high schools across this land, they would be shocked. It is nothing but sheer pornography. Case in point is the sex education program at Hononegah high school in Rockton, Illinois. The development of homosexual clubs within the high schools is creating a panacea of tragic consequences.

State of Colorado Senate Bill 08-200 "Concerning the Expansion of Prohibitions against Discrimination, and Making an Appropriation Therefor," Provided under Section 6.24-34-601 (1) and (2) Colorado Revised Statutes are amended to read:

> **24-34-601. Discrimination in places of public accommodation.**
>
> (1) As used in this part six, "place of public accommodation" means any place of business

[28] Basic Data from the College Entry Exam Board, New York.

[29] Basic data from statistical abstract of the United States, and the Department of Commerce, Census Bureau

engaged in any sales to the public and anyplace offering services, facilities, privileges, advantages, or accommodation to the public, including but not limited to any business offering wholesale or retail sales to the public; any place to eat, drink, sleep, or rest, or any combination thereof; any sporting or recreational area and facility; any public transportation facilities; a barbershop, bathhouse, swimming pool, baths, steam or massage parlor, gymnasium, or other establishment conducted to serve the health, appearance, or physical condition of the person; a campsite or trailer camp; the dispensary, clinic, hospital, convalescent home, or other institution for the sick, alien, aged, or infirm; a mortuary, undertaking parter, or cemeteries; an educational institution; or any public building, park, Arena, theater, hall, auditorium, museum, library, exhibit, or public facility of any kind whether indoor or outdoor. "Place of public accommodation" shall not include a church, synagogue, mosque, or other place that is principally used for religious purposes.

(2) It Is a discriminatory practice and unlawful for a person, directly or indirectly, to refuse, withhold from, or deny it to an individual or a group, because of disability, race, creed, color, sex, Sexual Orientation, marital status, national origin, or ancestry, the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or

accommodations of a place of public accommodation or, directly or indirectly, to publish, circulate, issue, display, post, or mail in a written, electronic, or printed communication, notice, or advertisement that indicates that the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation will be refused, withheld from, or denied an individual or that an individual's patronage or presence in a place of public accommodation is unwelcome, objectionable, unacceptable, or undesirable blue because of disability, race, creed, color, sex, Sexual Orientation, marital status, national origin, or ancestry.

24-34-602. Penalty and Civil Liability.

(1) Any person who violates any of the provisions of section 24-34-601 by denying to any citizen, except for reasons applicable alike to all citizens of every disability, race, creed, color, sex, SEXUAL ORIENTATION, marital status, national origin, or ancestry, and regardless of disability, race, creed, color, sex, sexual orientation, marital status, national origin, or ancestry, the full enjoyment of any of the accommodations, advantages, facilities, or privileges in said section enumerated or by aiding or inciting such denial, for every such offense, shall forfeit and pay a sum of not less than fifty dollars nor more than five hundred dollars to the person aggrieved thereby to be

recovered in any court of competent jurisdiction in the county were said to offense was committed.

(2) For each offense described in subsection (1) of this section, the person is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than ten dollars nor more than three hundred dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

(3) omitted

24-34-701. Publishing of discriminative matter forbidden. (The text omitted)

2-4-401. The following definitions apply to every statute, unless the context otherwise requires:

(13.5) "SEXUAL ORIENTATION" MEANS A PERSON'S ORIENTATION TOWARD HETEROSEXUALITY, HOMOSEXUALITY, BISEXUALITY, OR TRANSGENDER STATUS OR ANOTHER PERSON'S PERCEPTION THEREOF.

The above act is incredible beyond description and is the product of decisions by courts of law in violation of the constitutional provisions contained in the Declaration Of Independence and demonstrate precariously a comparison of what was going on in Germany under the Nazi government.

CONCLUSION

The Declaration of Independence must be recognized as containing a law and moral truths not prescribed by man, but prescribed by the Creator God as set forth in the Declaration which was to be the foundation under which the "political process" contained in the Constitution was to be administered for the protection of those moral truths and the rights contained in the declaration. If as a court and a nation we cannot recognize the evidence of the tragic consequences of aborting that foundation, the future for our posterity is certainly not that which was planned by the Founding Fathers in the Declaration of Independence; rather we will inherit the prophetic pronouncements of the Founders.

As C. K. Chesterton said: "when God is no longer the foundational basis for government, then the government becomes God.

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